

EBONY BELLAMY, individually and) Case No.
on behalf of all others similarly situated,)

Plaintiff,

VS.

GC SERVICES LIMITED
PARTNERSHIP,

Defendant.

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF:**

1. VIOLATIONS OF
TELEPHONE CONSUMER
PROTECTION ACT [47
U.S.C. §227 ET SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff EBONY BELLAMY (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following against Defendant GC SERVICES LIMITED PARTNERSHIP upon information and belief based upon personal knowledge:

INTRODUCTION

1. Plaintiff's Class Action Complaint is brought pursuant to the Telephone Consumer Protection Act, 47 U.S.C. 227 et seq. ("TCPA").

2. Plaintiff, individually, and on behalf of all others similarly situated,

1 brings this Complaint for damages, injunctive relief, and any other available legal
2 or equitable remedies, resulting from the illegal actions of Defendant in
3 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff's cellular
4 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
5 personal knowledge as to himself and his own acts and experiences, and, as to all
6 other matters, upon information and belief, including investigation conducted by
7 his attorneys.

8 JURISDICTION AND VENUE

9
10 3. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
11 a resident of Pennsylvania, seeks relief on behalf of a Class, which will result in
12 at least one class member belonging to a different state than that of Defendant, a
13 company with its State of Incorporation in Delaware. Plaintiff also seeks up to
14 \$1,500.00 in damages for each call in violation of the TCPA, which, when
15 aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00
16 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and
17 the damages threshold under the Class Action Fairness Act of 2005 ("CAFA") are
18 present, and this Court has jurisdiction.

19
20 4. Venue is proper in the United States District Court for the
21 EASTERN District of Pennsylvania pursuant to 18 U.S.C. 1391(b) and 18 U.S.C.
22 § 1441(a) because Defendant does business within the State of Pennsylvania and
23 Plaintiff resides within this District.

24 PARTIES

25 5. Plaintiff, Ebony Bellamy ("PLAINTIFF"), is a natural person
26 residing in Columbia County in the state of Pennsylvania, and is an "individual"
27 as defined by 47 U.S.C. § 153 (39).
28

1 6. At all relevant times herein, DEFENDANT, GC SERVICES
2 LIMITED PARTNERSHIP (“DEFENDANT”), was a company engaged, by use
3 of the mails and telephone, in the business of collecting a debt from PLAINTIFF
4 and is a person as defined by 47 U.S.C. § 153 (39).

5 7. Defendants acted through their agents, employees, officers,
6 members, directors, heirs, successors, assigns, principals, trustees, sureties,
7 subrogees, representatives, and insurers.

8 **FACTUAL ALLEGATIONS – TCPA**
9

10 8. Beginning in or around February of 2016, Defendant contacted
11 Plaintiff on her cellular telephone number ending in -4527, in an effort to collect
12 an alleged debt owed from Plaintiff.

13 10. In its efforts to collect the alleged debt owed from Plaintiff,
14 Defendant used an “automatic telephone dialing system”, as defined by 47 U.S.C.
15 § 227(a)(1) to place its daily calls to Plaintiff seeking to collect an alleged debt
16 owed.

17 11. Defendant’s calls constituted calls that were not for emergency
18 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

19 12. Defendant’s calls were placed to telephone number assigned to a
20 cellular telephone service for which Plaintiff incurs a charge for incoming calls
21 pursuant to 47 U.S.C. § 227(b)(1).

22 13. During all relevant times, Defendant did not possess Plaintiff’s
23 “prior express consent” to receive calls using an automatic telephone dialing
24 system or an artificial or prerecorded voice on his cellular telephone pursuant to
25 47 U.S.C. § 227(b)(1)(A). Furthermore, Plaintiff orally revoked any and all
26 consent to be contacted using an automated telephone dialing system, to the
27 extent any ever existed.
28

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

15. Plaintiff represents, and is a member of, The Class, consisting of All persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously not provided their cellular telephone number to Defendant within the four years prior to the filing of this Complaint.

16. Defendant, its employees and agents are excluded from The Class. Plaintiff does not know the number of members in The Class, but believes the Class members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

17. The Class is so numerous that the individual joinder of all of its members is impractical. While the exact number and identities of The Class members are unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is informed and believes and thereon alleges that The Class includes thousands of members. Plaintiff alleges that The Class members may be ascertained by the records maintained by Defendant.

18. Plaintiff and members of The Class were harmed by the acts of

1 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
2 and Class members via their cellular telephones thereby causing Plaintiff and
3 Class members to incur certain charges or reduced telephone time for which
4 Plaintiff and Class members had previously paid by having to retrieve or
5 administer messages left by Defendant during those illegal calls, and invading the
6 privacy of said Plaintiff and Class members.

7 19. Common questions of fact and law exist as to all members of The
8 Class which predominate over any questions affecting only individual members
9 of The Class. These common legal and factual questions, which do not vary
10 between Class members, and which may be determined without reference to the
11 individual circumstances of any Class members, include, but are not limited to,
12 the following:

- 13 a. Whether, within the four years prior to the filing of this
14 Complaint, Defendant made any collection call (other than a
15 call made for emergency purposes or made with the prior
16 express consent of the called party) to a Class member using
17 any automatic telephone dialing system or any artificial or
18 prerecorded voice to any telephone number assigned to a
19 cellular telephone service;
- 20 b. Whether Plaintiff and the Class members were damages
21 thereby, and the extent of damages for such violation; and
- 22 c. Whether Defendant should be enjoined from engaging in such
23 conduct in the future.

24 20. As a person that received numerous collection calls from Defendant
25 using an automatic telephone dialing system or an artificial or prerecorded voice,
26 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
27 typical of The Class.

28 21. Plaintiff will fairly and adequately protect the interests of the

1 members of The Class. Plaintiff has retained attorneys experienced in the
2 prosecution of class actions.

3 22. A class action is superior to other available methods of fair and
4 efficient adjudication of this controversy, since individual litigation of the claims
5 of all Class members is impracticable. Even if every Class member could afford
6 individual litigation, the court system could not. It would be unduly burdensome
7 to the courts in which individual litigation of numerous issues would proceed.
8 Individualized litigation would also present the potential for varying, inconsistent,
9 or contradictory judgments and would magnify the delay and expense to all
10 parties and to the court system resulting from multiple trials of the same complex
11 factual issues. By contrast, the conduct of this action as a class action presents
12 fewer management difficulties, conserves the resources of the parties and of the
13 court system, and protects the rights of each Class member.

14 23. The prosecution of separate actions by individual Class members
15 would create a risk of adjudications with respect to them that would, as a practical
16 matter, be dispositive of the interests of the other Class members not parties to
17 such adjudications or that would substantially impair or impede the ability of such
18 non-party Class members to protect their interests.

19 24. Defendant has acted or refused to act in respects generally applicable
20 to The Class, thereby making appropriate final and injunctive relief with regard to
21 the members of The Class as a whole.

22 **FIRST CAUSE OF ACTION**

23 **Negligent Violations of the Telephone Consumer Protection Act**

24 **47 U.S.C. §227 et seq.**

25 25. Plaintiff repeats and incorporates by reference into this cause of
26 action the allegations set forth above at Paragraphs 1-24.

27 26. The foregoing acts and omissions of Defendant constitute numerous
28 and multiple negligent violations of the TCPA, including but not limited to each

1 and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

2 27. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et*
3 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in
4 statutory damages, for each and every violation, pursuant to 47 U.S.C. §
5 227(b)(3)(B).

6 28. Plaintiff and the Class members are also entitled to and seek
7 injunctive relief prohibiting such conduct in the future.

8 **SECOND CAUSE OF ACTION**

9 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

10 **Act**

11 **47 U.S.C. §227 *et seq.***

12 29. Plaintiff repeats and incorporates by reference into this cause of
13 action the allegations set forth above at Paragraphs 1-28.

14 30. The foregoing acts and omissions of Defendant constitute numerous
15 and multiple knowing and/or willful violations of the TCPA, including but not
16 limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et*
17 *seq.*

18 31. As a result of Defendant's knowing and/or willful violations of 47
19 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of
20 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47
21 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

22 32. Plaintiff and the Class members are also entitled to and seek
23 injunctive relief prohibiting such conduct in the future.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

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FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

TRIAL BY JURY

33. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 30th day of June, 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: 

Cynthia Z. Levin

Law Offices of Todd M. Friedman

Attorney for Plaintiff